

Committee on Trade and Environment

THE PRODUCT COVERAGE OF DIFFERENT INTERNATIONAL INSTRUMENTS
DEALING WITH TRADE IN DOMESTICALLY PROHIBITED GOODS
AND OTHER HAZARDOUS SUBSTANCES

Note by the Secretariat

I. INTRODUCTION

1. This Note responds to the request made by delegations for a Note by the Secretariat on the product coverage of the international agreements and instruments that address trade in domestically prohibited goods (DPGs), as well as on the format of possible DPG notifications in the WTO.¹ It updates document WT/CTE/W/29 (14 May 1996), which was the last Secretariat Note that addressed the product coverage of different international instruments, and presents different options for the format of possible DPG notifications.

II. OVERVIEW OF INTERNATIONAL INSTRUMENTS ADDRESSING TRADE IN DPGS

2. The main international agreements and instruments which address trade in DPGs include the following:

- (a) London Guidelines for the Exchange of Information on Chemicals in International Trade, United Nations Environment Program (UNEP), 1987;
- (b) International Code of Conduct on the Distribution and Use of Pesticides, Food and Agriculture Organization (FAO), 1985;
- (c) Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, draft convention, FAO and UNEP;
- (d) Persistent Organic Pollutants, legally binding instrument to be developed, UNEP;
- (e) Code of Ethics on International Trade in Chemicals, UNEP, 1984;
- (f) Convention Concerning Safety in the Use of Chemicals at Work (no. 170), International Labour Organization (ILO), 1990;

¹ Previous Notes prepared by the GATT and WTO Secretariats on the product coverage of different international instruments addressing trade in DPGs have included: DPG/W/1 (6 May 1985), DPG/W/4/Rev.1 (24 November 1989), WT/CTE/W/6 (31 March 1995), and WT/CTE/W/29 (14 May 1996).

- (g) Convention Concerning the Prevention of Major Industrial Accidents (No. 174), ILO, 1993;
- (h) Montreal Protocol on Substances That Deplete the Ozone Layer, UNEP, 1987;
- (i) United Nations Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments, fifth issue, 1994;
- (j) United Nations Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments, Pharmaceuticals, sixth issue, 1997;
- (k) Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce, World Health Organization (WHO), 1975;
- (l) 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, United Nations (UN), 1988;
- (m) 1971 Convention on Psychotropic Substances, UN, 1971;
- (n) 1961 Single Convention on Narcotics, UN, 1961;
- (o) Codex Alimentarius, 1962;
- (p) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, UNEP, 1988;
- (q) Agreement on Technical Barriers to Trade, WTO, 1995;
- (r) Agreement on Sanitary and Phytosanitary Measures, WTO, 1995.

3. The international instruments identified above cover four types of DPGs: (a) Chemicals (including pesticides and fertilizers); (b) pharmaceuticals; (c) consumer products; and (d) hazardous wastes. Two of the instruments are still under development: (i) the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which is a convention that is in the process of being developed by UNEP and the FAO; and (ii) the legally binding instrument on Persistent Organic Pollutants, for which work will begin in 1998 under the auspices of UNEP.

III. CHEMICALS, INCLUDING PESTICIDES AND FERTILIZERS

A. London Guidelines for the Exchange of Information on Chemicals in International Trade (1987), the International Code of Conduct on the Distribution and Use of Pesticides (1985), and the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (draft convention)

4. As a result of growth in world trade in chemicals during the 1960s and 1970s, and concern regarding the risks associated with the use hazardous chemicals (particularly in developing countries), two international instruments were developed under the umbrella of the UN: (a) The London Guidelines for the Exchange of Information on Chemicals in International Trade, developed by UNEP (adopted in 1987 and amended in 1989); and (b) the International Code of Conduct on the Distribution and Use of Pesticides, developed by the FAO (adopted in 1985 and amended in 1989).

Both the London Guidelines and the Code of Conduct are aimed at making information on hazardous chemicals more widely available to countries to enable them to assess the risks associated with their use.

5. Two procedures have been established under these instruments to achieve this goal. The first involves the creation of an information exchange mechanism on hazardous chemicals. The second, known as Prior Informed Consent (PIC), included in 1989, is a mechanism which is designed to ensure the consent of importing countries regarding the import of certain chemicals that have been banned or severely restricted in their countries of export.² It is implemented through the FAO/UNEP Joint Programme on Implementation of PIC.³

(a) Voluntary Prior Informed Consent Procedure

6. PIC is currently a voluntary procedure which is designed to help countries learn more about the characteristics of potentially hazardous chemicals that may be shipped to them, which initiates a decision making process on the future import of these chemicals by importing countries, and which facilitates the dissemination of decisions regarding import to all exporting countries. The aim of PIC is to promote shared responsibility between exporting and importing countries in the protection of human health and the environment from the harmful effects of certain hazardous chemicals that are traded internationally. A total of 154 countries participate in the voluntary PIC scheme. The scheme includes 22 pesticides and 5 industrial chemicals.

7. Under the voluntary PIC procedure, participating countries must notify the FAO and UNEP Joint Secretariat (which administers the Joint Programme on Implementation of PIC) of the chemicals which they either ban or severely restrict. This initiates a process of identifying the chemicals to be included under the PIC procedure. For chemicals which comply with a set of specific criteria, the FAO/UNEP Joint Group of Experts on PIC prepares a Decision Guidance Document (DGD)⁴ which it forwards to all participating countries in order to obtain their decision on whether or not they will allow future imports, or will allow imports but only under certain conditions. Import decisions must apply uniformly to imports from all exporting countries and to any domestic manufacture of the chemicals. Import decisions are compiled by the FAO/UNEP Joint Secretariat, which distributes them to all participating countries. Exporting countries should ensure that PIC decisions made by importing countries are communicated to their exporters, and that the exporters comply with these decisions.

8. Under the voluntary PIC procedure any chemical banned⁵ or severely restricted⁶ for health or environmental reasons in at least one country is eligible for inclusion under the mechanism. PIC applies only to chemicals, and not to products/articles which may contain residual elements of such chemicals. In addition, acutely toxic pesticide formulations which have not been banned or severely

² For more information on Prior Informed Consent, delegations are invited to consult the presentation given by the Director of UNEP Chemicals before the CTE in September 1997. The presentation is contained in document WT/CTE/W/59.

³ In UNEP, *Chemicals* is the lead office for industrial and consumer chemicals. In FAO, the *Plant Production Division* is the lead agency for pesticides.

⁴ Decision Guidance Documents (DGD) contain information on the important characteristic of products (their chemical and physical properties, the risks associated with their use, etc.).

⁵ A "banned chemical" is a chemical which has, for health or environmental reasons, been prohibited for all uses by final governmental regulatory action (Article 1(a) of the London Guidelines).

⁶ A "severely restricted chemical" is a chemical for which, for health or environmental reasons, virtually all uses have been prohibited nationally by final government regulatory action, but for which certain specific uses remain authorized (Article 1(b) of the London Guidelines).

restricted in any country for health and environmental reasons, but which are causing problems under conditions of use in developing countries may also be included.

9. The Amended London Guidelines do not apply to pharmaceuticals (including narcotics, drugs or psychotropic substances), radioactive materials, chemicals imported for the purposes of research or analysis in quantities not likely to affect the environment or human health, chemicals imported as personal household effects, in quantities reasonable for these uses, and food additives.

(b) Draft Prior Informed Consent Convention

10. In November 1994, the FAO Council, at its 107th Session, agreed that the FAO Secretariat should proceed with the preparation of a draft PIC convention as part of the current FAO/UNEP Programme on PIC, in cooperation with other international and non-governmental organizations. In May 1995, the UNEP Governing Council, at its 18th Session, authorized UNEP to prepare for and convene, together with the FAO, and in consultation with governments and other relevant international organizations, an Intergovernmental Negotiating Committee (INC), with a mandate to prepare an international legally-binding instrument for the application of the PIC procedure for certain hazardous chemicals and pesticides in international trade. The INC has held 4 Sessions until today, and is expected to convene a 5th Session in early 1998. Following the 5th INC Session, a Diplomatic Conference to adopt the legally binding PIC convention is expected to take place in Rotterdam, the Netherlands, also in 1998.

11. According to Article 1 of the draft PIC convention, the objective of the PIC procedure is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals to protect the environment, human, animal, plant life and health from potential harm. In order to do so, the draft articles lay out a number of steps to be undertaken under a legally binding PIC procedure. These would ensure that chemicals included under the PIC procedure are not exported to participating countries without their prior informed consent.

(c) Information Exchange Mechanism on Hazardous Chemicals

12. Both the London Guidelines and the FAO Code of Conduct contain provisions aimed at facilitating the exchange of information between countries on chemicals traded internationally, especially those chemicals which have been banned or severely restricted for health or environmental reasons. The information exchange provisions under these two instruments are inextricably linked to the PIC procedure. Under these provisions, countries are required to notify the FAO/UNEP Secretariats of the actions taken to either ban or severely restrict a chemical. Based on these notifications, the chemicals eligible for inclusion under PIC are identified. The FAO/UNEP Secretariat sends a DGD to all participating countries informing them of the hazards associated with these chemicals.

13. The exporting country should also ensure that the importing country is aware that the export of a chemical which is either banned or severely restricted in the exporting country is expected to occur. This takes place through export notifications to importing countries. Exporting countries are encouraged to provide importing countries with information, advice and assistance, including appropriate precautionary information, regarding the chemicals they are exporting. Information exchange also takes place with respect to the classification, packaging, and labelling of chemicals for export.

B. Persistent Organic Pollutants (Instrument to be Developed)

14. International action to reduce or eliminate emissions and releases of persistent organic pollutants (POPs) has been initiated in a number of fora. POPs are chemical substances which persist in the environment for extended periods of time prior to their break down, which travel long distances

to all regions of the world, including remote areas in which the production of POPs has never taken place, accumulate in the tissue of most living organisms and poison both humans and wildlife.

15. In 1995, the Executive Body for the Convention on Long-Range Transboundary Air Pollution (LRTAP), under the UN Economic Commission for Europe (UN/ECE), agreed that negotiations for a protocol on POPs should be initiated. The Working Group on Strategies, under which negotiations have taken place, is expected to develop a final text of the protocol in early 1998.

16. At the UNEP Governing Council meeting in May 1995, three different decisions were taken which address POPs. Decision 18/32 called for the need for international action to reduce and eliminate releases and emissions of POPs. It invited the Inter-Organization Programme for the Sound Management of Chemicals, together with the International Programme on Chemical Safety and the Intergovernmental Forum on Chemical Safety, to initiate an assessment process, beginning with a list of 12 chemicals.⁷ Decision 18/31 concerning the Protection of the Marine Environment from Land-Based Activities called for appropriate attention to be given to support action at the national and regional levels on POPs. Decision 18/12 noted that many of the POPs chemicals referred to in Decision 18/32 are also covered under the voluntary PIC procedure.

17. At the UNEP Governing Council meeting in February 1997, agreement was reached on Decision 19/13 which calls for negotiations on a POPs treaty to begin in early 1998 and to conclude by the year 2000. The purpose of the treaty would be to eliminate production and use of POPs. UNEP is currently preparing for the first meeting in June 1998 of the Intergovernmental Negotiating Committee (INC), which is the body mandated to prepare the international legally binding instrument on POPs. It has requested that an expert group be established at the first meeting of the INC to develop scientific criteria and a procedure for identifying additional POPs for future international action. Important to note is that of 12 chemicals to be considered, 10 chemicals are either banned or severely restricted in a number of countries (with the exception of dioxins and furans). Most of the 12 chemicals being considered are pesticides.

18. At its 1997 session, the UNEP Governing Council also called for a number of immediate actions to be undertaken with respect to POPs. The immediate actions were initiated in 1997, and they include: developing and sharing information on the 12 POPs as well as improving the availability of information and expertise on POPs alternatives; developing guidelines on how to identify PCB-containing materials and an inventory of PCB destruction capacity worldwide; and, assisting in the identification of national sources of dioxin and furan releases and initiating cooperation programmes between developed and developing countries to address them.

C. Code of Ethics on International Trade in Chemicals

19. The Code of Ethics on International Trade in Chemicals was developed in 1984 and is intended to complement the Amended London Guidelines by developing a voluntary code of conduct for industries in the private sector. The objective of the Code is to address "The production and management of chemicals in international trade, taking into account their entire life cycle, with the purpose of reducing risks to human health and the environment which may be posed by such chemicals". Under the Code companies pledge: (a) to provide government authorities and others with relevant information on chemicals and to cooperate with local communities and other firms; (b) to develop management systems for ensuring proper controls; (c) to choose suppliers and other partners that also have high safety standards; and (d) to participate in internationally agreed instruments such as the Prior Informed Consent procedure. Companies are also required to halt the

⁷ The 12 chemicals include: PCBs, dioxins and furans, aldrin, dieldrin, DDT, endrin, chlordane, hexachlorobenzene, mirex, toxaphene, and heptachlor.

manufacturing and trade of chemicals which are deemed to have unacceptable risks. The Code also includes a number of requirements related to the classification, packaging, and labelling of chemicals.

20. While the Code applies to all chemicals, the following are exempted from its requirements: pharmaceuticals, radioactive materials, chemicals imported for the purpose of research and analysis in quantities not likely to affect the environment and human health, chemicals imported as personal or household effects, in quantities reasonable for these uses, and food additives.

D. Convention Concerning Safety in the Use of Chemicals at Work (No. 170)

21. The Convention Concerning Safety in the Use of Chemicals at Work was developed in 1990, and entered into force in 1993. It is implemented under the auspices of ILO. The Convention covers chemical elements and compounds, and mixtures thereof, whether natural or synthetic. The term "Use of chemicals at work" is defined as any work activity which may expose a worker to a chemical, such as the production, handling, storage and transport of chemicals, the disposal and treatment of waste chemicals, the release of chemicals resulting from work activity, and the maintenance, repair and cleaning of equipment and containers for chemicals. The Convention has been ratified by 7 countries.

22. The objective of the Convention is to ensure that all chemicals are evaluated by a competent national authority to determine their hazards, to provide information to employers and workers concerning chemicals used at work and to establish principles for programmes to ensure that these chemicals are used safely. For that purpose, all chemicals are to be classified. Hazardous chemicals are to be labelled and a chemical safety data sheet, containing detailed essential information regarding their suppliers, classification, hazards, safety precautions and emergency procedures are to be provided to employers. Requirements for the marking and labelling chemicals, and for chemical safety data sheets, are established by competent national authorities, in accordance with national or international standards.

23. Pursuant to the Convention, exporting countries are to inform importing countries of the hazardous chemicals domestically prohibited for reasons of safety and health at work, as well as of the grounds for such prohibition. Suppliers (manufacturers, importers or distributors) are to ensure that chemicals have been classified, marked or labelled as hazardous in accordance with the Convention, and that chemical safety data sheets are prepared for hazardous chemicals.

E. Convention Concerning the Prevention of Major Industrial Accidents (No. 174)

24. The Convention Concerning the Prevention of Major Industrial Accidents was developed in 1993, and has entered into force in 1997. It is implemented under the auspices of the ILO. The objective of the Convention is to prevent major accidents involving hazardous substances and to limit the consequences of such accidents. It applies to major "hazard installations", but does not apply to nuclear installations and plants processing radioactive substances except for facilities handling non-radioactive substances at these installations, military installations, and transport outside the site of an installation other than by pipeline. The Convention provides for a number of preventive and protective measures to be adopted by Parties, to reduce the likelihood of major accidents. It has been ratified by 3 countries.

25. Under the Convention, when in an exporting country, the use of hazardous substances⁸, technologies or processes is prohibited as a potential source of major accidents⁹, information on this prohibition and the reasons for it are to be made available by the exporting country to the importing country.

F. The Montreal Protocol on Substances that Deplete the Ozone Layer

26. In response to growing evidence on the destruction of the ozone layer by the certain chemical substances, two international agreements for the protection of the ozone layer were signed under the auspices of UNEP: the Vienna Convention for the Protection of the Ozone Layer, signed in 1985; and the Montreal Protocol on Substances that Deplete the Ozone Layer, signed in 1987 (the Protocol entered into force in 1989).¹⁰ While the Vienna Convention is a commitment by countries for the protection of the ozone layer, the Montreal Protocol provides for the phase out of the production and consumption of ozone depleting substances according to a specific timetable. Developing countries are given a grace period for the phase out. A total of 155 countries are Parties to the Vienna Convention and the Montreal Protocol.

27. The Montreal Protocol includes a number of categories of controlled substances: (a) Annex A includes Chlorofluorocarbons (CFCs) and Halons; (b) Annex B includes other fully halogenated CFCs, Carbon Tetrachloride, and Trichloroethane; (c) Annex C includes Hydrochlorofluorocarbons and Hydrobromofluorocarbons; and (d) Annex E includes Methyl Bromide. For each of the controlled substances, the Protocol lays down a schedule for the reduction and the eventual phase-out of production and consumption. This would ultimately lead to a reduction and elimination of trade amongst Parties. In addition, the Protocol imposes a general obligation to ban exports of controlled substances to non-Parties (with the exception of the Annex E substance). However, exports of controlled substances to non-Parties complying with the provisions of the Protocol is allowed.

28. At the Ninth Meeting of Parties (25 September 1997), Decision IX/9, on the Control of Export of Products and Equipment Whose Continuing Functioning Relies on Annex A and Annex B Substances, was adopted.¹¹ The Decision recommends that each Party adopt legislative and administrative measures, including labelling of products and equipments, to regulate the export and import of products, equipment, components and technology whose continuing functioning relies on the supply of substances listed in Annexes A and B of the Montreal Protocol.

29. The Ninth Meeting of Parties also adopted an amendment to the Montreal Protocol, requiring all Parties to implement an import and export licensing system for trade in controlled substances. Decision IX/8 on Licensing System urges Parties to implement such a system so they are better able to comply with the data reporting requirements of the Protocol (used to determine compliance), and so they can assist in the prevention of illegal traffic in controlled substances.

⁸ Under the Convention, the term "hazardous substance" means a substance or mixture of substances which by virtue of chemical, physical or toxicological properties, either singly or in combination, constitutes a hazard.

⁹ Under the Convention, the term "major accident" means a sudden occurrence - such as a major emission, fire or explosion - in the course of an activity within a major hazard installation, involving one or more hazardous substances and leading to a serious danger to workers, the public or the environment, whether immediate or delayed.

¹⁰ For more information on the Montreal Protocol, delegations are invited to consult the presentation given by the Secretariat of the Montreal Protocol before the CTE, in September 1997. The presentation is contained in document WT/CTE/W57.

¹¹ For more information on the trade-related decisions adopted at the Ninth Meeting of Parties to the Montreal Protocol, refer to document WT/CTE/W/68.

30. The Protocol imposes a number of reporting requirements on Parties. The 1990 London Amendment to the Protocol introduced an obligation for Parties to provide the Montreal Protocol Secretariat with statistical data on their annual production of controlled substances, as well as on their imports and exports to Parties and non-Parties respectively. In addition, Decision VII/9 on Basic Domestic Needs states that "... exporting Parties should report to the Ozone Secretariat by 30 September each year on the types, quantities and destinations of their exports of ozone-depleting substances during the previous year".

G. UN Consolidated List of Products whose Consumption and/or Sale have been Banned, Withdrawn, or Severely Restricted or not Approved by Governments (fifth issue)

31. The UN Consolidated List of Products whose Consumption and/or Sale have been Banned, Withdrawn, Severely Restricted or not Approved by Governments is prepared by the UN Secretariat, the WHO and UNEP, and is periodically up-dated (the fifth issue was published in 1994). The List is part of an effort in the UN system of disseminating information internationally on products harmful to health and the environment.

32. The Consolidated List contains information on the regulatory action taken by governments on pharmaceuticals, agricultural and industrial chemicals, and consumer products.¹² It is divided into two sections, one containing regulatory information (national control actions) and the other commercial information (data on trade names and manufacturers relating to a large proportion of the products presented in the first section). The information contained in the Consolidated List is not considered to be exhaustive, neither in terms of products, nor in terms of regulatory measures. Nevertheless, the List covers the regulatory actions taken by 93 governments on approximately 700 products. It is intended to complement and consolidate other information produced within the UN system.

33. On chemicals, the Consolidated List contains information on national control action for approximately 370 agricultural and industrial chemicals. UNEP Chemicals collects, screens and processes information relating to regulatory measures taken by Governments on pharmaceutical products, and on the health-related and environmental reasons for these measures. The Consolidated List does not include many of the widely used industrial chemicals to which occupational exposure limits have been assigned by national authorities, and on which information is available at the ILO or UNEP Chemicals. Food additives are also outside the scope of the List since the FAO/WHO Codex Alimentarius deals with them.

IV. PHARMACEUTICAL PRODUCTS

A. Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce

34. In response to concern about the quality of pharmaceuticals moving in international trade, in 1975 the WHO adopted the Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce and recommended its usage by WHO Member States. In 1988 the coverage of the Scheme was extended beyond pharmaceuticals, to the certification of starting materials and called for the provision of product information as approved by the country of export.

¹² In 1995 the UN Secretariat, UNEP, the WHO and the ILO decided that as a cost saving measure the UN Consolidated List would only be printed every two years. Given the limitations of a single bulky volume, it was decided to divide the List into two volumes - to be printed separately on alternate years, with one volume containing only information relating to pharmaceuticals and the other containing information on chemicals (including consumer products) - each with a distinct issue number. The List devoted to pharmaceuticals was issued in 1997 and is the sixth issue of the Consolidated List. The seventh issue, to be devoted to chemicals (including consumer products), will be issued in 1998.

The Certification Scheme is linked to the WHO standards on Good Manufacturing Practice. A total of 141 WHO Member States have informed the WHO of their wish to participate in the Scheme through designated national authorities.

35. The Certification Scheme creates a mechanism whereby an importing country can: (a) Obtain assurance that a given product has been authorized for placement on the market in the exporting country, or information on the reasons for which a product has not been authorized for such placement; (b) obtain assurance that the manufacturing plant in which the product is produced is subject to inspections at suitable intervals and conforms to the requirements for good practices in the manufacture and quality control of drugs, as recommended by the WHO; (c) obtain copies of all information and labels supplied with the products, as stated on packaging materials and package inserts that have been approved by the competent authority of the exporting country; and (d) obtain information on the implementation of inspections and controls by the authorities of the exporting country. In the case of serious quality defects in the importing or exporting countries, such information may be exchanged.¹³

36. The Scheme covers any medicine intended for human use, or veterinary product administered to food-producing animals, presented in its finished dosage form or as a starting material, when it is subject to control by the legislation of either exporting or importing WHO Member.¹⁴

B. 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1971 Convention on Psychotropic Substances, and 1961 Single Convention on Narcotics

37. The 1998, 1971 and 1961 Conventions dealing with narcotic and psychotropic substances are administered by the United Nations International Drug Control Programme, at the United Nations in Vienna.

38. The Single Convention on Narcotics was adopted in 1961 and entered into force in 1964.¹⁵ The Convention is designed to group under a single instrument all previous conventions concerning narcotics. Under the convention, narcotic drugs include opium and its derivatives (morphine, codeine, and heroine), other drugs of man-made origin (such as methadone and pethidine), as well as cannabis and cocaine. The Convention classifies these drugs into 4 schedules based on the level of stringency required in their control. Under the Convention, importers must seek import authorization from the regulatory authorities of their own countries, prior to the importation of narcotics contained in certain schedules. Export authorizations from the authorities of the exporting country must also be obtained, and are based on import authorizations. Authorizations are mandatory. Over 150 countries are Parties to the Single Convention.

39. The Convention on Psychotropic Substances was adopted in 1971, and entered into force in 1976. Under the Convention, psychotropic substances mainly include stimulants, hallucinogenic substances, and depressants. The Convention divides psychotropic substances into 4 schedules, based on the control measures which they necessitate. It also regulates trade in psychotropic substances in a similar way to the Single Convention. Article 13 of the Convention on Psychotropic substances authorizes national regulatory authorities to notify the UN of the import prohibitions of these substances which they maintain. Over 130 countries are Parties to the 1971 Convention.

¹³ If unable to satisfy its information needs as provided for by the Certification Scheme, an importing country may refuse the importation of the products concerned.

¹⁴ In two of the WHO's widely distributed publications, the *WHO Pharmaceutical Newsletter* and *WHO Drug Information*, the WHO makes available information regarding the safety and efficacy of drugs.

¹⁵ The Convention was amended in the 1972 Protocol which entered into force in 1975.

40. The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was adopted in 1988 and entered into force in 1990. The Convention is designed to complement the previous two Conventions as well as to strengthen international cooperation in the control of illegal drugs. The Convention is designed to control illicit supply of narcotic drugs and psychotropic substances through the control of their 'precursors' - essential chemicals used in the clandestine manufacture of these substances. Under the Convention, governments may prohibit or severely control the import or export of precursors. Import and export authorizations for international trade in precursors is also required by some governments. Over 110 countries are Parties to the 1988 Convention.

C. United Nations Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments, Pharmaceuticals (sixth issue)

41. The sixth issue of the UN Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments is devoted to pharmaceuticals (it has been published in 1997). It is the first issue of the Consolidated List that focuses on a specific product category. The List includes over 400 pages and covers pharmaceuticals regulated on account of their chemical composition. Part one of the List, prepared jointly by the UN and the WHO, presents information on restrictive regulatory decisions taken by Governments on pharmaceuticals. It covers the regulatory action taken by a total of 77 Governments on 368 pharmaceutical products. Part two of the List, compiled by the United Nations Secretariat, presents commercial information, including data on trade names, relating to a large proportion of the products covered in part one.

D. UN Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, or Severely Restricted or not Approved by Governments (fifth issue)

42. As stated under III/7, the UN Consolidated List addresses pharmaceuticals. The section on pharmaceuticals is prepared in cooperation with the WHO. The WHO collects, screens and processes the information relating to the regulatory measures taken by Governments on pharmaceutical products, and on the health-related and environmental reasons for these measures. Psychotropic and narcotic substances addressed in international conventions are included only where a Government is controlling a substance more rigorously than is required under the international convention. The fifth issue contains information on more than 300 products, notified by 99 governments. In order to put national decisions into an international perspective, the WHO has prepared a comment which appears at the end of each product entry. This comment is cleared by all national regulatory authorities whose decisions are reported.

V. CONSUMER PRODUCTS

A. Codex Alimentarius

43. Codex Alimentarius is a collection of international food standards adopted by the Codex Alimentarius Commission, an international body responsible for the execution of the Joint FAO/WHO Food Standards Programme. Over 150 countries participate in the Food Standards Programme, which was created in 1962 for the purpose of protecting consumer health and facilitating international trade in food. Codex Alimentarius includes standards for all principal foods, whether processed or semi-processed or raw. It includes provisions that address the hygienic and nutritional quality of food, food additives, pesticides residues, contaminants, food labelling, and methods of sampling and analysis.

44. The standards and maximum limits for pesticides residues are established by the Codex Alimentarius Commission. Governments must notify the Codex Secretariat of whether or not they

accept the new or amended standards. When a government cannot accept a standard, or when it accepts the standard conditionally, it must also inform the Secretariat of its reasons. The notification system ensures that Codex Alimentarius can be used as a reference for governments and traders.

45. Regarding food additives, Codex Alimentarius contains General Principles for the Use of Food Additives, and an International Numbering System for Food Additives (INS) whose purpose is to facilitate the identification of food additives in ingredients lists. Further provisions relate to the carry-over of food additives into foods, the labelling of food additives when sold, etc.

B. United Nations Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments (fifth issue)

46. As stated under III/7, the UN Consolidated List addresses consumer products. However, it only covers those products that have been regulated on account of their chemical composition. The List contains information regarding action taken on approximately 106 substances that are prohibited or restricted in consumer products. The products include children's articles, household products, cosmetics, cleaning fluids, textiles and clothing, etc.

VI. HAZARDOUS WASTE

A Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

47. The Basel Convention on the Control of the Transboundary Movements of Hazardous Wastes and Their Disposal was adopted in 1988 under the auspices of UNEP, but entered into force in 1992. A total of 115 States and the European Economic Community are Parties to the Convention.¹⁶ The Convention's overall objective is "to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes." It establishes a number of principles for the management of hazardous wastes and lays out a control regime for the regulation of their transboundary movement.

48. The Technical Working Group, a subsidiary body of the Basel Convention, has classified and characterized the materials to be considered as "hazardous wastes" under the Convention. They fall into the following categories: "List A" wastes are wastes characterized as hazardous under the Convention; "List B" wastes are wastes not to be characterized as hazardous under the Convention, unless they contain Annex I material to an extent causing them to exhibit one or more Annex III hazard characteristics.¹⁷ However, if a waste on List B is considered to be hazardous by the legislation of an exporting Party, a Party of import or transit, this waste would nevertheless be subject to the control regime of the Convention. A review mechanism has been established which makes it possible to add wastes to Lists A or B, or to withdraw wastes from these lists. The Fourth Meeting of the Conference of Parties (scheduled to take place in February 1998) will consider the outcome of the work of the Technical Working Group, and may decide on how to integrate the Lists into the framework of the Convention.

¹⁶ For more information on the Basel Convention, delegations are invited to consult the presentation given by the Secretariat of the Basel Convention before the CTE in September 1997. The presentation is contained in document WT/CTE/W/55.

¹⁷ Annexes I and III of the Basel Convention are on *Categories of Wastes to be Controlled* and *List of Hazardous Characteristics* respectively.

49. Under the Convention, every State has the sovereign right to ban the import of hazardous wastes. Parties to the Convention exercising this right are to inform the Secretariat of the Convention of their decision. In addition, exporting states are to prohibit the export of hazardous wastes to Parties that have banned their import. The Convention also prohibits Parties to either import or export hazardous wastes from non-Parties (exceptions are made for bilateral, regional or multilateral agreements or arrangements provided that certain conditions are met).

50. The Third Meeting of the Conference of Parties adopted an amendment to the Convention (Decision III/1), obliging all Parties and other States which are members of the Organization for Economic Cooperation and Development (OECD), the European Community (EC) or Liechtenstein (known as the Annex VII list of countries) to prohibit all transboundary movements of hazardous wastes which are destined for final disposal to other states (non-Annex VII). Transboundary movements of hazardous wastes which are destined for recovery or recycling were to be phased out, and prohibited by 31 December 1997. As of October 1997, 7 Parties have ratified the amendment. However, over 60 Parties must do so for it to enter into force.

51. The Basel Convention includes a prior informed consent (PIC) procedure for the transboundary movement of hazardous waste. Under the PIC procedure, transboundary movement can only take place after the states of import and transit have given their written consent to the state of export, on the basis of information provided by the latter. If Decision III/1 enters force, the PIC procedure will only apply to trade within Annex VII states, to trade within non-Annex VII states, or to other movements of hazardous wastes provided for under bilateral, regional or multilateral agreements. Currently, it applies to all movements of hazardous wastes, except where import and export bans of such wastes are in place.

VII. GATT/WTO INSTRUMENTS

A. Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures

52. The WTO Agreement on Technical Barriers to Trade (TBT), which entered into force in 1995, recognizes the right of Members to adopt measures such as technical regulations, standards, testing and certification procedures for the protection of human, animal, plant life or health, or the environment, or to meet consumer interests. However, the Agreement seeks to ensure that such measures do not create unnecessary obstacles to trade.

53. Under the TBT Agreement, Members must notify the WTO Secretariat of their technical regulations and conformity assessment procedures when the two following conditions apply: (a) Whenever a relevant standard or guide or recommendation issued by an international standardizing body does not exist or the technical content of a proposed or adopted technical regulation or procedure is not in accordance with the technical content of relevant international standards or guides or recommendations; and (b) if the technical regulation or conformity assessment procedure may have a significant effect on the trade of other Members.

54. For urgent problems of safety, health, environmental protection or national security, Members must notify the WTO Secretariat immediately of the adopted technical regulation or conformity assessment procedure with an indication of the products covered, and the objective. Therefore, the WTO Agreement on TBT is designed primarily to provide WTO Members with timely information on the technical regulations and conformity assessment procedures that are applied to imports.

55. As TBT notifications contain information on the technical regulations administered at the national level, and as technical regulations amount to a ban on the domestic sale or use of the products

notified if not in conformity with the standards set in the regulations, they can be a source of information on DPGs.

56. The WTO Agreement on Sanitary and Phytosanitary Measures (SPS), which also entered into force in 1995, functions in a similar way to the TBT Agreement, but its scope extends only to SPS measures. These are defined, in part, as measures applied "to protect human, or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease ridden organisms in foods, beverages or feedstuffs" (the full definition is contained in Annex A to the Agreement). Under the Agreement, Members are also required to notify their SPS measures to the WTO Secretariat.¹⁸ As the notifications provide information on the SPS measures administered at the national level, they can be source of information on DPGs.

VIII. FORMAT OF POSSIBLE NOTIFICATIONS IN THE WTO

57. A number of notification systems exist or have existed in the WTO, which provide useful insight into the format of possible WTO DPG notifications. The format of DPG notifications, which existed under the GATT's DPG notification system from 1983 to 1990, as well as the format of standard TBT and SPS notifications, are included in Annexes A, B and C to this Note. Delegations may wish to consider them in the context of reviving the DPG notification system.

¹⁸ Before the entry into force of the WTO, regulations regarding sanitary and phytosanitary measures, including food safety standards, were subject to the TBT Agreement for those countries which were signatories.

ANNEX A

FORMAT OF DPG NOTIFICATIONS USED FROM 1983-90

NOTIFICATION

1. Country notifying:
2. Responsible authority:
3. Description of Goods:
4. Human health and safety grounds for banning the goods:
5. Other relevant information:

ANNEX B

FORMAT OF NOTIFICATIONS UNDER THE AGREEMENT
ON TECHNICAL BARRIERS TO TRADE

NOTIFICATION

1.	Member to Agreement notifying: If applicable, name of local government involved:
2.	Agency responsible: Agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3.	Notified under Article (-----), other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):
5.	Title, number of pages and language(s) of the notified document:
6.	Description of content:
7.	Objective and rationale, including the nature of urgent problems where applicable:
8.	Relevant documents:
9.	Proposed date of adoption: Proposed date of entry into force:
10.	Final date for comments:
11.	Texts available from: National enquiry point [] or address, e-mail and telefax number of other body:

ANNEX C

FORMAT OF NOTIFICATIONS UNDER THE AGREEMENT
ON SANITARY AND PHYTOSANITARY MEASURES

NOTIFICATION

1.	Member to Agreement notifying: If applicable, name of local government involved:
2.	Agency responsible:
3.	Products covered (tariff item number(s) as specified in national schedules deposited with the WTO. ICS numbers may be provided in addition, where applicable):
4.	Title and number of pages of the notified document:
5.	Description of content:
6.	Objective and rationale:
7.	An international standard, guideline or recommendation does not exist []. If an international standard, guideline or recommendation exists, whenever possible, identify deviations:
8.	Relevant documents and language(s) in which these are available:
9.	Proposed date of adoption:
10.	Proposed date of entry into force:
11.	Final date for comments: Agency or authority designated to handle comments:
12.	Texts available from: National enquiry point [] or address, telefax number and e-mail address (if available) of other body:
